

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

FILED

MAR - 4 2003

CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_  
Deputy

ROBERT N. GOLDSTEIN, §  
GOLDSTEIN/HABEEB §  
ENTERTAINMENT, INC., and §  
CHEATERS, LTD., §  
Plaintiffs §  
§  
vs. §  
§  
TOMMY HABEEB §  
Defendant §

CAUSE NO. 03-CV-0266N

**PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION TO DISMISS**

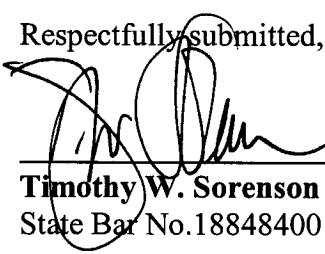
TO THE HONORABLE JUDGE:

Plaintiffs respond to Defendant's 12(b)(6) motion to dismiss as follows:

1. Defendant merely alleges facts which, if proven, may effect the outcome of the trial in chief of Plaintiffs' complaint. The issue when a federal court reviews a complaint for sufficiency under Fed.R.Civ.P. 12(b)(6) is whether the claimants are entitled to offer evidence to support their claims, and, as in summary judgment proceedings, the complaint must be construed favorably to the Plaintiffs. *Scheuer v. Rhodes*, 416 U.S. 232, 236, 94 S.Ct. 1683, 1686 (1974). A court may dismiss only if it appears that under no circumstances can the Plaintiffs prove their allegations. *Conley v. Gibson*, 355 U.S. 41, 45-46, 78 S.Ct. 99, 102 (1957).
2. Defendant fails state any legal grounds or authority for the dismissal of Plaintiffs' complaint as required by LR 7.1 (d) and (h) of this court.

WHEREFORE Plaintiffs request the court to enter an order overruling Defendant's 12 (b)(6) motion to dismiss.

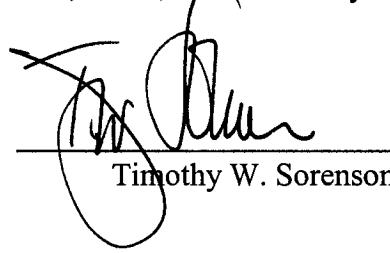
Respectfully submitted,

  
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Timothy W. Sorenson  
State Bar No.18848400

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**Attorney for Plaintiffs**

**Certificate of Service**

I certify that on this 4th day of March, 2003, a copy of the above and foregoing Plaintiffs' Response to Defendant's Motion to Dismiss served on Cecil W. Casterline, counsel for Defendant, at 5310 harvest Hill, Suite 296W, LB 122, Dallas, Texas 75230 by United States First Class Mail.

  
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Timothy W. Sorenson